

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-31

March 5, 2004

SOMERSET TELEPHONE COMPANY (TDS)
Petition for Finding of Public Convenience and
Necessity Request by Somerset to Expand its
Service Area (Solon Exchange); Request by
Verizon to Relinquish a Portion of its Service
Area (Bingham Exchange)

ORDER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order we approve Verizon Maine's (Verizon) request to relinquish a portion of its service area and Somerset Telephone Company's (Somerset) request to expand its service area.

II. BACKGROUND

On January 15, 2004, Verizon filed a request to revise the boundary map for its Bingham exchange and included paper and electronic maps of the revised exchange boundary. On January 30, 2004, Somerset filed a similar request to revise the service territory boundary for its Solon exchange, along with paper and electronic maps. The joint request¹ for a boundary revision is being made to allow Somerset telephone to serve a customer located in the affected area. Somerset has facilities substantially closer to the new customer, and the two companies agreed that it would be better able to serve that customer. The effect of this proposed change is that Verizon will lose a portion of its service territory in the town of Bingham (in its Bingham exchange) and Somerset will acquire service territory in the town of Bingham (in its Solon exchange). Such transfers of service area are governed by our decision in *Contel of Maine, Inc., Proposed Maps to Provide for Boundary Changes Between Contel and Bryant Pond*

¹ The companies originally filed the boundary exchange request as separate tariff filings. Pursuant to Chapter 140 Section 2(B)(1).

If a proposed change to a boundary between the service areas of two or more different utilities is the result of an agreement between the affected utilities, the utilities must make a joint filing...the Administrative Director of the Commission will not separately docket the map as a proposed change to the utility's terms and conditions pursuant to 35-A M.R.S.A. § 307.

Therefore, we will consider this a joint filing and not proposed tariff changes.

Telephone Company, Docket No. 90-83 and *Bryant Pond Telephone Company, Proposed Boundary Changes Agreed Upon with Contel of Maine*, Docket No. 90-115, Order (October 3, 1990). Under the holding in that case, both companies require approval pursuant to 35-A M.R.S.A. § 2102.

Although Somerset has charter authority to provide service statewide, it nevertheless must obtain the approval of the Commission pursuant to 35-A M.R.S.A. § 2102 in order to provide service in any municipality in which service is provided by another telephone utility. As we held in *Public Utilities Commission, Investigation of Madison Electric Works, affirmed Town of Madison, Dept. of Electric Works v. PUC*, 682 A.2d 231 (Me. 1996), a utility seeking to serve in an area in which another utility is providing service (or has authority to do so) must obtain Commission approval if it was not serving in that area as of October 8, 1966 (the effective date of the “grandfather clause” contained in Section 2102(2)), even though the utility seeking to provide service is providing service elsewhere within that municipality or has charter (or other) authority to do so.

III. DECISION

Both Somerset and the utility now serving the affected area, Verizon, are parties to this joint filing and agree that the change is in the best interest of the companies and the new customer. We therefore see no reason not to approve the change, and we grant approval to Somerset to expand its service area and to Verizon to contract its service area.

We now will consider the maps included in each companies filings. Pursuant to Chapter 140 Section 2(B),

[I]f a utility must obtain approval from the Commission to change its service area pursuant to 35-A M.R.S.A. §§ 1104, 1321, 2102, 2103, or 2104 or for any other reason, it must file an application for approval of the change pursuant to the applicable section. Upon ordering the approval of the service area change, the Commission must either approve the service area map filed with the application as being in compliance with its order and as a change to the utility’s terms and conditions or, if the map requires corrections, order the utility to file a corrected map.

Both Verizon and Somerset filed service area maps of the proposed boundary change. The maps appear to show corresponding changes in the Solon and Bingham exchanges. However, the Verizon maps are filed in an electronic format that complies

with the formatting requirements of Chapter 140, and Somerset's are not.² Further, Somerset's map depicts only a portion of the Solon exchange, not the entire exchange. Therefore, we are unable to determine with certainty if the portion of the exchange that Verizon is relinquishing is, in fact, identical to the area that Somerset is requesting in its expansion. Somerset must re-file maps, both paper and electronic, that comply with Chapter 140 by April 1, 2004.³

III. CONCLUSION

We approve Verizon's request to relinquish a portion of its service area and Somerset's request to expand its service area.

Accordingly, we

1. ORDER the contraction, in the Bingham exchange, of the service area of Verizon New England Inc. d/b/a Verizon Maine as depicted in its exchange boundary map identified as Part A, Section 5, Sheet 11, Fifth Revision;
2. ORDER, pursuant to 35-A M.R.S.A. § 2102, the expansion, in the Solon exchange, of the service area of Somerset Telephone Company to include the area previously part of the Bingham exchange of Verizon New England Inc. d/b/a Verizon Maine as depicted on the maps described herein;
3. APPROVE the service area map filed by Verizon Maine as Part A, Section 5, Sheet 11, Fifth Revision of its schedules of terms and conditions; and
4. ORDER Somerset Telephone Company, on or before April 1, 2004, to file compliance maps that meet the requirements of both Chapters 120 and 140 as changes to its schedules of terms and conditions; the maps of each company shall show exchange boundaries that are coincident with each other.

² The paper maps must also comply with Chapter 120. Verizon's maps, filed on January 15, 2004, do comply, but the Somerset maps attached to its January 30, 2004, letter do not. The maps must have the identification of the utility, a signature of an authorized utility officer, an effective date, and page and revision number, all as required by Section 3 (C) 2 of Chapter 120.

³ Somerset's existing exchange boundary maps on file with the Commission (e.g., for the Solon exchange, Section 6, Sheet 1, Second Revision) comply with the requirements of Chapter 120. Somerset subsequently filed service area maps pursuant to Chapter 140, but Somerset has not yet annotated those maps to comply with Chapter 120, and the electronic copy of those maps was not filed in the format required by Chapter 140. Somerset has agreed to correct these problems in a timely manner.

Dated at Augusta, Maine, this 5th day of March, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.